

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
JO-ANNE FILIPKOWSKI, *individually and on behalf of all* :
others similarly situated, :
 :
Plaintiff, :
 :
v. : Case No. 20-cv-01754-JS-AKT
 :
BETHPAGE FEDERAL CREDIT UNION, *and* :
Does 1-100, :
 :
Defendants. :
 :
----- X

**DECLARATION OF BRENDA SMITH IN SUPPORT OF REPLY TO PLAINTIFF’S
OPPOSITION TO DEFENDANT’S MOTION TO COMPEL ARBITRATION**

I, Brenda Smith, on behalf of Taylor Communications, Inc. (“Taylor”), state and declare, to my knowledge and recollection as of the date of this Declaration, as follows:

1. Among other things, Taylor is engaged in the business of providing monthly account statements, on behalf of its clients, by mail to customers and members of client banks and credit unions.

2. In 2019, I was employed as a Customer Service Representative at Taylor. My duties at Taylor included working with Taylor’s bank and credit union clients (“Clients”) to facilitate sending monthly account statements to Clients’ customers and members. One of the Clients I worked with was Bethpage Federal Credit Union (“Bethpage”).

3. As the Customer Service Representative for Bethpage, I was involved in the mailing of account statements to Bethpage members in October 2019.

4. As reasonably requested by Bethpage, Taylor printed actual account statements mailed to Bethpage members. If requested by a Client, Taylor will include inserts with monthly

account statements sent by mail. Clients must provide instructions to Taylor regarding the inserts and must provide the actual inserts in sufficient quantity to include with the statements.

5. As a standard business practice, Clients will provide Taylor with a “Mailing Profile Form.” This form is completed initially by the Client and is reviewed and revised or approved by Taylor.

6. On September 11, 2019, Caitlin Dour, one of my contacts at Bethpage, sent me a Mailing Profile Form indicating that Bethpage wanted to include inserts with the September 2019 statements (“September Statements”) that were to be sent by mail in early October (“Bethpage MPF”). A true copy of the emails between me and Ms. Dour are attached as **Exhibit 1**.

7. The Bethpage MPF has “Begin Production Date: Oct. 1, 2019” and “End Production Date: Oct. 10, 2019.” These dates were proposed by Bethpage and reflect an estimated time frame for the performance and completion of the work to be provided by Taylor. I reviewed the Bethpage MPF and approved the estimation for the mailing of the September Statements. A copy of the Bethpage MPF that I approved in September 2019 is attached as **Exhibit 2**.

8. Prior to September 30, 2019, Taylor received the inserts identified on the Bethpage MPF (namely, the Consumer Member Privacy Notice, the Arbitration Agreement and the Fee Schedule), from a third party supplier on behalf of Bethpage.

9. As directed by Bethpage, one or more of those inserts were added to the September Statements and mailed to Bethpage members. The United States Postal Service provides access to online information that confirms the mailing services provided by Taylor for the September Statements was completed by October 7, 2019. A copy of the postage statement from a United States Postal Service online portal is attached as **Exhibit 3**.

10. Taylor records related to the production and mailing services provided to Bethpage are kept in the ordinary course of Taylor's business and were created at or about the time of the events reflected in the records.

11. The process for folding the statements and inserts and stuffing them into the envelopes sent to Bethpage members for the September Statements was automated.

12. I have been provided with a copy of a Bethpage account statement for Jo-Anne L Filipkowski and Zbigniew Filipkowski dated September 30, 2019 ("Filipkowski Statement"). The copy of the statement that I received is attached as **Exhibit 4**.

13. At the top of this statement, immediately above the Filipkowskis names, is a key line, with a series of numbers and letters, and IMB – intelligent mail barcode. The key line and IMB are added to statements when the data file is processed by Taylor.

14. The numbers "1-3" in the key line identify the number of sheets of paper used for the September Statements. The numbers "2.3" at the end of the key line identify the inserts added to the September Statements and correspond to the Fee Schedule and the Arbitration Agreement in this case, which are identified as S2 and S3 in the "Insert Selection Criteria" column on the Bethpage MPF.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 19 day of August 2020 at Frederick County, Maryland.



Brenda Smith
Customer Service Representative
for Taylor Communications, Inc.